

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:21-CV-232-FL

DELONE ALFORD,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
SOCIAL SECURITY ADMINISTRATION,)	
)	
Defendant.)	

This matter is before the court upon pro se plaintiff's motion for leave to proceed in forma pauperis, (DE 3), and for review of plaintiff's complaint, (DE 3-1), pursuant to 28 U.S.C. § 1915(e). United States Magistrate Judge Brian S. Meyers entered memorandum and recommendation ("M&R"), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein it is recommended plaintiff's complaint be dismissed for lack of subject matter jurisdiction and, in the alternative, for failure to state a claim upon which relief can be granted. (DE 6). Plaintiff did not file objections to the M&R, and the time within which to make any objection has expired. In this posture, the issues raised are ripe for ruling.

Upon a careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge's findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

Here, the magistrate judge recommends dismissal of plaintiff's claims for wrongful denial of Social Security benefits due to lack of federal subject matter jurisdiction as plaintiff fails to allege that he exhausted administrative remedies and received a final decision from the Commissioner of the Social Security Administration ("SSA") prior to filing his complaint. See 42 U.S.C. § 405(g). Upon careful review of the M&R, the court finds the magistrate judge's analysis to be thorough, and there is no clear error. The court hereby ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, plaintiff's complaint is DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction. As the case is resolved on finding a lack of subject matter jurisdiction, the court does not reach the magistrate judge's proposed alternative basis for dismissal. The clerk of court is DIRECTED to close the case.

SO ORDERED, this the 15th day of August, 2022.


LOUISE W. FLANAGAN
United States District Judge